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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/998,266	11/30/2001	Frank Kelly	PD-201065	4255

7590 02/24/2005  
Hughes Electronics Corporation  
Patent Docket Administration  
P.O. Box 956  
Bldg. 1, Mail Stop A109  
El Segundo, CA 90245-0956

EXAMINER
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NGUYEN, TU X

ART UNIT	PAPER NUMBER
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2684

DATE MAILED: 02/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/998,266

Applicant(s)

KELLY ET AL.

Examiner

Tu X Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 November 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 11/09/04 have been fully considered but they are not persuasive.

Applicants argue that "The Office Action contends that this feature is shown in Wright et al. by reference to col. 2, lines 35-37, which state: 'Report cell comprising report information in response to the estimate of the received energy of the burst signal or the time of arrival of the burst signal at the satellite, addresses identifying destinations and identifiers indicating that the report cells contain the report information are generated, preferably by a cell former located at the satellite. However, this passage is not sufficiently detailed to disclose that the report information in the report cell is actually a message specifying the determined power level to the terminal" as recited in claim 1. In fact, as Wright et al, col. 26:43-50, explains, the report information does not specify the recited 'determined power level but contains something else. Wright et al. disclose, "the power level is adjusted based on the report information in the report cells" (see col.2 lines 44-46, the report information, specifically, "error count indicator high/low bit" (see col.26 lines 46-47) reads on "message specifying the determined power level", the report contains detail information such "This error count indicator (high/low bit) is used by the earth terminal to recomputed the transmitted power level to be used". Therefore, after the satellite received the transmission burst from a terminal, the satellite estimates the received energy and responds, transmission

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on the downlink, the report information (error count indicator high/low bit) telling the terminal to adjust transmission power accordingly.

Applicants argue that "it appears that Rostamy et al. was only cited in the Office Action for a discussion of calculating the burst quality with respect to the carrier to noise ratio, but not for changing Wright et al.'s principle of operation grounded in an error count indicator". The examiner agrees with the applicants, Rostamy et al. just covers the Wright et al.'s deficiency "measuring signal-to-noise ratio of the transmission burst"

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-3, 5-9, 11-15, 17-21, 23-27 and 29-30, are rejected under 35

U.S.C. 102(e) as being anticipated by Wright et al. (US Patent 6,366,776).

Regarding claims 1, 13 and 19, Wright et al. discloses a method for automatically adjusting power level of a terminal in a radio communications system, the method comprising:

receiving a transmission burst from the terminal (see col.2 lines 30-32);

determining power level of the transmission burst (see col.2 lines 30-32); and

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transmitting a message specifying the determined power level to the terminal (see col.2 lines 35-37).

Regarding claim 7, Wright et al. disclose adjustment in a radio communication system, comprising:

a transceiver (see col.1 lines 8-15 "uplink and downlink" reads on transceiver) configured to receive a transmission burst from a terminal (see col.2 lines 31-32); and

logic configured to determine power level of the transmission burst and to generate a message specifying the determined power level to the terminal (see col.2 lines 20-51).

Regarding claim 25, Wright et al. disclose everything as claim 1 above. More specifically, Wright et al. inherently disclose a computer-readable medium carrying one or more sequences of one or more instructions (see col.2 lines 20-50, the processing communications satellite systems and more particularly relates to coordination between the uplinks and downlinks of such system inherently require a computer-readable medium carrying one or more sequences of one or more instructions)

Regarding claims 2, 20 and 26, Wright et al. disclose the terminal selectively adjusts transmission power based upon the message (see col.2 lines 44-49).

Regarding claims 3, 9, 15, 21 and 27, Wright et al. disclose the transmission burst contains information on signal quality (see col.11 lines 50-55).

Regarding claims 5, 11, 17, 23 and 29, Wright et al. disclose the radio communications system is a two-way satellite communication system having a star

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topology (see fig.1, the satellite 100 acts as a central hub distributor between user terminals 400 and network operation center 300 corresponding to star topology).

Regarding claims 6, 12, 18, 24 and 30, Wright et al. disclose determining the step and the transmitting step are performed on a real-time basis (see col. 2 lines 32-33).

Regarding claims 8 and 14, Wright et al. disclose the terminal selectively (see col.26 lines 20-41) adjusts transmission power based upon the message (see col.2 lines 25-26).

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 4, 10, 16, 22 and 28, are rejected under 35 U.S.C. 103(a) as being unpatentable over Wright et al (US Patent 6,366,776) in view of Rostamy et al. (US Patent 6,330,431).

Regarding claims 4, 10, 16, 22 and 28, Wright et al. fail to disclose measuring signal-to-noise ratio of the transmission burst.

Rostamy et al. disclose measuring signal-to-noise ratio of the transmission burst (see col.4 lines 50-51). Therefore, It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Wright et al. with the

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above teaching of Rostamy et al. in order to provide the use of an inverse impairment correlation matrix to obtain the necessary parameters, and to use of specific algorithms for calculating the burst quality as suggested by Rotamy et al. (see col.1 lines 39-41)

### **Conclusion**

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raymond S Dean whose telephone number is 703-305-8998. The examiner, Tu Nguyen 703-305-3427, can normally be reached on 8:00-4:30AM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MAUNG NAY A, can be reached at (703) 308-7745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

*TM*

February 15, 2005

*N. H. Maung*  
NAY MAUNG

SUPERVISORY PATENT EXAMINER